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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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UNITED STATES OF AMERICA : **CRIMINAL COMPLAINT**  
 :  
 v. : Honorable Mark Falk  
 :  
 DEREK SPIVEY : Mag. No. 21-16066  
 :

I, David Scanlon, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief:

**SEE ATTACHMENT A**

I further state that I am a Task Force Officer with the Bureau of Alcohol, Tobacco, Firearms, and Explosives, and that this complaint is based on the following facts:

**SEE ATTACHMENT B**

*TFO David Scanlon*  
David Scanlon, Task Force Officer  
Bureau of Alcohol, Tobacco, Firearms, and Explosives

Task Force Officer Scanlon attested to this Complaint  
by telephone pursuant to F.R.C.P. 4.1(b)(2)(A)

03/08/2021  
Date

at District of New Jersey  
County and State

HONORABLE MARK FALK  
UNITED STATES MAGISTRATE JUDGE

s/USMJ Mark Falk  
Signature of Judicial Officer

**ATTACHMENT A**

(Possession of a Firearm and Ammunition by a Convicted Felon)

On or about March 2, 2021, in Hudson County, in the District of New Jersey and elsewhere, the defendant,

**DEREK SPIVEY,**

knowing that he had previously been convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly possess a firearm in and affecting commerce, namely, a Smith & Wesson SD9VE 9 millimeter handgun, bearing serial number FXL7227, with five rounds of G.F.L. 9 millimeter ammunition.

In violation of Title 18, United States Code, Section 922(g)(1).

**ATTACHMENT B**

I, David Scanlon, am a Task Force Officer with the Bureau of Alcohol, Tobacco, Firearms, and Explosives. I am fully familiar with the facts set forth herein based on my own investigation, my conversations with other law enforcement officers, and my review of reports, documents, and photographs of the evidence. Where statements of others are related herein, they are related in substance and part. Because this Complaint is being submitted for a limited purpose, I have not set forth each and every fact that I know concerning this investigation. Where I assert that an event took place on a particular date, I am asserting that it took place on or about the date alleged.

1. At approximately 11:14 p.m. on or about February 3, 2021, law enforcement observed a green Ford Explorer SUV (the "SUV") with tinted windows traveling southbound on Broadway, in violation of Section 39:3-75.1 of the New Jersey Code of Criminal Justice. The driver did not utilize the directional turn signal before making a right-hand turn onto West 48<sup>th</sup> Street, in violation of Section 39:4-126 of the New Jersey Code of Criminal Justice. Law enforcement observed the SUV pull over and abruptly stop in front of 18 West 48<sup>th</sup> Street, Bayonne, New Jersey, blocking the driveway of the residence.

2. Law enforcement then activated their emergency lights and sirens and conducted a lawful motor vehicle stop. Two officers approached the SUV; one approached the SUV on the driver's side and the other approached the SUV on the passenger side. Law enforcement asked the driver and sole occupant of the vehicle for his driver's license and vehicle documentation. The driver, who was later identified as Derek Spivey ("SPIVEY"), told law enforcement that he did not have his driver's license and believed that his driving privileges were currently suspended.

3. While illuminating a flashlight inside of the SUV, the officer on the passenger side of the SUV observed a large bulge in SPIVEY's front right-side coat pocket and alerted the other officer to the same. SPIVEY was then ordered out of the SUV. As SPIVEY exited the vehicle, the officer on the driver's side asked SPIVEY if he had anything on his person that he was not supposed to have. SPIVEY stated in substance, "yes, I have a gun in my front right coat pocket and a magazine in my left coat pocket."

4. Law enforcement then frisked SPIVEY and recovered a black-colored Smith & Wesson SD9VE 9 millimeter handgun, bearing serial number FXL7227 (the "Firearm"), from his right coat pocket, and a silver-colored Smith & Wesson magazine containing 5 rounds of G.F.L. 9 millimeter ammunition (the "Ammunition").

5. The Firearm and the Ammunition were manufactured outside the State of New Jersey, and thus necessarily traveled in interstate commerce prior to March 2, 2021.

6. On or about June 7, 2010, SPIVEY was convicted in the Superior Court of New Jersey, Hudson County, of being a certain person not to have a weapon, in violation of Section 2C:39-7A of the New Jersey Code of Criminal Justice, a crime punishable by imprisonment for a term exceeding one year.